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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/937,263	09/24/2001	Kevin John Ashton	CM 2094	6594

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EXAMINER

VON BUHR, MARIA N

ART UNIT	PAPER NUMBER
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2125

DATE MAILED: 12/07/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/937,263

Applicant(s)

ASHTON, KEVIN JOHN

Examiner

Maria N. Von Buhr

Art Unit

2125

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 September 2001 and 14 February 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 24 September 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 02142002.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

1. This application is a continuation of Application Serial No. PCT/US00/11304 and is, therefore, accorded the benefit of the earlier filing date of 27 April 2000. Any previously presented rejections or objections which are not expressly repeated in this Office action are hereby withdrawn.
2. Examiner acknowledges receipt of Applicant's preliminary amendment, received 24 September 2001; which amends claims 4-6 and 8-11. Claims 1-11 remain pending in this application.
3. Receipt is acknowledged of papers submitted under 35 U.S.C. §119(a)-(d), which papers have been placed of record in the parent PCT application file.
4. Examiner acknowledges receipt of Applicant's information disclosure statements, received 14 February 2002, with accompanying reference copies, which have been taken into consideration for this Office action.
5. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.
6. Claim 9 is objected to under 37 CFR §1.75(c) as being in improper form because a multiple dependent claim should refer to other claims in the alternative only. In this case, the claim attempts to be dependent upon both claim 8 and claim 5. See MPEP §608.01(n). Accordingly, the claim should not be further treated on the merits. However, in order to provide for compact prosecution, Examiner will further treat the instant claim as if it is dependent only upon claim 8.
7. The drawings are objected to under 37 CFR §1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the "electronic character display" (claim 4), "data processing unit" (claims 6-11), "computer system" and "database" (claim 7), "means for passing information to a shelf display" and "shelf display" (claim 9), "means for checking the location and/or quantity of items ... and providing an indication of misplaced items" (claim 10), and "means for providing an indication of the removal of large numbers of items" (claim 11) must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.
8. Corrected drawing sheets in compliance with 37 CFR §1.121(d) are required in reply to this Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include

all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR §1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by Examiner, Applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

9. The following is a quotation of the first paragraph of 35 U.S.C. §112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

10. Claim 3 is rejected under 35 U.S.C. §112, first paragraph, as failing to comply with the enablement requirement. The claim contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. In this case, there is no support in the specification for a "multi-bit magnetic tag."

11. The following is a quotation of the second paragraph of 35 U.S.C. §112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which Applicant regards as his invention.

12. Claims 1-11 are rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention.

- a. In claim 1, the phrase "for example" is indefinite, since the metes and bounds of such an exemplification does not provide an explicit definition of the instantly claimed system structure.
- b. Claim 6 is grammatically awkward.

c. In claim 7, the phrase "and the like" is indefinite, since the metes and bounds of such an exemplification does not provide an explicit definition of the instantly claimed system structure.

d. In claim 8, there is no clear and proper antecedent basis for "the level of stock," "the requirement for replenishment of the items" nor "the number of items."

e. In claim 9, there is no clear and proper antecedent basis for "the prices." Also, there is no functional antecedence for nor any instantly claimed support for the statement of desired result of "enabling price changes to be indicated substantially instantaneously when changes are made in the data processing unit," which presents ambiguity with regard to the metes and bounds of such a limitation.

f. In claim 10, there is no clear and proper antecedent basis for "the location." Also, there is no functional antecedence for nor any instantly claimed support for the statement of desired result of "providing an indication of misplaced items," which presents ambiguity with regard to the metes and bounds of such a limitation.

g. In claim 11, there is no clear and proper antecedent basis for "the removal of large numbers of items." Also, the metes and bounds of "usually" are unclear, since the term is one of degree.

h. The remainder of the claims stand rejected as necessarily incorporating the above-noted ambiguities of their parent claims.

13. The following is a quotation of the appropriate paragraphs of 35 U.S.C. §102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by Applicant for a patent.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by Applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by Applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

14. Claims 1, 2 and 4-11 are rejected under 35 U.S.C. §102(b) as being clearly anticipated by Griffith et al. (U.S. Patent No. 5,887,176), which discloses "a system that utilizes radio frequency circuitry in combination with microprocessor devices and specially designed software to provide an improved structure and operation for the monitoring, protection and control of inventory assets. Generally, the system is embodied in a system controller unit, one or more interrogator devices and multiple transponder units. The system controller unit may be a personal computer (PC) based device for effecting the control and monitoring of the system's operation. In addition, the system controller unit serves as a data collection device and as an alarm device. The interrogator device(s) incorporate a transceiver controlled by microprocessor circuitry within the interrogator devices. The transponder units also include a radio transceiver and microprocessor circuitry. The transponder units are attached to a container or item to be monitored and protected. The microprocessor circuit and the memory therein store the transponder identification code and can also contain data on the contents or nature of the container/item to which it is attached" (see at least, the abstract; Figs. 1-2, with accompanying text; cols. 1-3; col. 4, lines 58-65; col. 5, lines 39-44; col. 8, line 50 - col. 9, line 3; col. 13, lines 1-10; col. 17, lines 20-33).

15. Claims 1-3 and 5-7 are rejected under 35 U.S.C. §102(e) as being clearly anticipated by Goff et al. (U.S. Patent No. 6,600,420), which discloses a radio frequency identification (RFID) system including "antenna shelf tape ... for use with items having radio frequency identification elements or tags associated with items of interest" for determining the presence of items on shelves in a library (see at least, the abstract; Figs. 9-10, with accompanying text; cols. 1-3; col. 6, line 45 - col. 8, line 8; col. 10, lines 5-18; col. 11, line 10 - col. 16, line 42).

16. The prior art made of record and not relied upon is considered pertinent to Applicant's disclosure. Applicant is advised to carefully review the cited art, as evidence of the state of the art, in preparation for responding to this Office action.

17. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Maria N. Von Buhr whose telephone number is 571-272-3755. The examiner can normally be reached on M-F (9am-5pm).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Leo Picard can be reached on 571-272-3749. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Maria N. Von Buhr
Primary Patent Examiner
Art Unit 2125

MNVB
12/01/04